IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 7893 of 2002

Between:

1 The Satish Mutually Aided Co-Operative Housing Society Ltd.,

Rep by its Secretary Sri A.R.Kishore S/o Late Surayanarayana
3-131/35,Narsapur Cross Roads, Balanagar, R.R.District
R/o.Hyderabad.
2 Suraya Nagar Housing Welfare Association Regd.No.1160,
L.I.G.H., S.R.Nagar, Hyderabad. Rep by its President Sri Rajamannar

S/o G.Joseph, Age: 58 R/o H.No.116/3,S.R.Nagar Colony,Hyderabad.
3 H.A.L. Employees Welfare Society Rep:by its General Manager

Sri P.Gopalaiah S/o P.Venkatarmana, A.943, H.A.L.Colony,
Hyderabad-500 042
4 Aeronautics Welfare Society, Rep:by its Secretary Sri Vinoda Reddy

S/o I.Sree Ramulu Reddy, C-72, H.A.L. Colony R/o 501/A B.R.Palace,
Kukatpally, Hyderabad-72.

..... PETITIONERS

AND

1 The Joint Collector
Ranga Reddy District, Khairthabad,
Hyderabad.
2 The Revenue Divisional Officer, East Division,
Ranga Reddy District.
3 The Mandal Revenue Officer, Qutubullapur,
Qutubullapur Mandal, Ranga Reddy District.
4 Yamjala Malla Reddy S/o Durga Reddy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
5 Dubba Balaiah S/o Jeethaiah
R/o Bowarampet Village, Qutubullapur Mandal,

Ranga Reddy District.

6 Dubba Sathaiah S/o Jeethaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

7 Dubba Shankaraiah S/o Jeethaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

8 Dubba Balamani W/o Yadaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

9 Talari Venkataiah S/o Pentaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

10 Yerri Rajaiah S/o Ramaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

11 Baddula Laxmi W/o Anajaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

12 Ponchi Arjun S/o Balaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

13 Ponchi Sathaiah S/o Balaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

14 Ponchi Balaiah S/o Sathaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

15 Talari Pentaiah S/o Veeraiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

16 Talari Ganesh S/o Pentaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

17 Erukula Mallesh S/o Balaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

18 Pochi Bheemaiah S/o Sathaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

19 B.Narender S/o Shankaraiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

20 B.Nagamani W/o Shankaraiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

21 Bembadi Kista Reddy S/o Narasa Reddy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

22 Yerri Krishna S/o Rajaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

23 Chinta Ysadaiah S/o Papaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
24 Ponchi Jangaiah S/o Mallaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
25 B.Kista Reddy S/o Malla Reddy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

26 Nacharam. Mallaiah S/o Ramaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
27 Potharam Narayana S/o Rama Swamy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
28 Chintha Balaiah S/o Laxmaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
29 Chintha Narasimhulu S/o Mallaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
30 Chakali Narasimhulu S/o Laxmaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
31 Pochi Chintaiah S/o Malaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
32 Chinta Ramulu S/o Sailoo
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
33 Pochi Laxminarayana S/o Mallaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
34 Talari Buchemma W/o Late Mallaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
35 B.Venkaiah S/o Samaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
36 Nacharam Veeraiah S/o Samaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
37 Dubba Ramesh S/o Jeethaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
38 Palupunnuri Anji Reddy S/o Malla Reddy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
39 Rayalapuram Venkaiah S/o Ramaiah
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.
40 Munagala Nagaiah S/o Bala Krishna

R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

41 Ch.Malla Reddy S/o Chitta Reddy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

42 Yamjala Narasimha Reddy S/o Bal Reddy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

43 Bal Reddy Sai Bal Reddy S/o Malla Reddy
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

44 Tallari China Pentaiah S/o Late Narayana
R/o Bowarampet Village, Qutubullapur Mandal,
Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari of any other appropriate writ: a) to quash the common orders dt.30-7-2001 of the 1st Respondent-Joint Collector affirming the orders of the 2nd Respondent Revenue Divisional Officer dt.31-5-1999 and 1-6-1999, b) to hold that prohibition of alienation Under Section 48-A of A.P.(T.A.)Tenancy and Agricultural lands Act of 1950 cease to apply to lands converted into non-agricultural lands, c) to hold period of prohibition of alienation for a period of 8 years provided under Section 48-A is only from the Statutory date of transfer of title under Section 38-E i.e.1-1-1978 and not from the date of issue of Certificate,
d) that the provisions under section 48-A restricting alienation by Protected Tenants are intended to protect the landlord and it can be waived by consent of land holder and tenant and are not mandatory and e) to direct the respondents to record the names of petitioners members as owners and occupants in the village records in pahanies as per the registered sale deeds.

Counsel for the Petitioners: MR.P.M.GOPAL RAO

& Unnam Muralidhar Rao

Counsel for the Respondents1 to 3: G.P. FOR REVENUE

Counsel for the Respondents4 to 43: Mr.P.Venugopal

Counsel for the Respondent No.44: Mr.Vijay B.Paropkari

The Court made the following

ORDER:

Satish Mutually Aided Co-operative Housing Society Limited (first petitioner) came into existence as a result of amalgamation of petitioners 2 to 4 societies. Petitioners 2 to 4 societies, on behalf of their members, filed three applications before the Mandal Revenue Officer, Qutubullapur Mandal, Ranga Reddy District (third respondent) on 06-11-1996, 07-11-1996 and 04-11-1996 respectively seeking mutation of their names in the 'Pattedar' column of the revenue records on the ground of purchase of land by their members from its owners and protected tenants under registered documents. Third respondent vide detailed orders in file Nos.A/146/96, A/1329/96, and A/746/96, dated
13-03-1997 holding that since pass books under Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short
"the R.O.R. Act") cannot be granted in respect of plots in
non-agricultural lands, ordered inclusion of the names of petitioners 2 to 4 societies in the possessor column of pahani and ordered entry of 'plots' in the pattedar column of pahani. Aggrieved thereby, respondents 4 to 43 preferred three appeals to the Revenue Divisional Officer, East Division, Ranga Reddy District (2nd respondent) in File Nos.A2/7703/1997, A2/7704/1997, and A2/6960/1997, who by his orders dated
31-05-1999, 31-05-1999 and 01-06-1999 allowed the appeals *inter alia* on the ground that respondents 4 to 43 were not given any opportunity of being heard. Aggrieved thereby, petitioners 2 to 4 preferred revisions in File Nos.D5/51191/1999,

D5/5192/1999 and D5/5193/1999 to the Joint Collector, Ranga Reddy District (first respondent) who by his common order dated 30-07-2001 dismissed the revisions and confirmed the orders of the second respondent.

2. Questioning the said common order dated 30-07-2001 of the first respondent petitioners filed this petition.

3. The undisputed facts are B. Prakash Reddy was the owner of the lands in Survey Nos.246 to 262, 265 to 269, 430 to 448, 454, 460 to 464, 517, 538 to 540 of Bowrampet village, Medchal Taluk, (presently Quthbullapur Mandal). Respondents 4 to 44 and others claiming to be protected tenants in respect of those lands sought certificates under Section 38-E of the
A.P (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short 'the Act') in respect of the lands in their possession in the above said survey numbers. After they were issued certificates under Section 38-E of the Act the landholder
B. Prakash Reddy preferred an appeal to the first respondent in File Nos.B4/1093/80 and B4/10834/79 against the order issuing certificates under Section 38-E of the Act to respondents 4 to 44 and others. During the pendency of the said appeal B. Prakash Reddy died and so his wife and daughter came on record as his legal representatives. The said appeal was dismissed as withdrawn, as settled out of Court, on 20-08-1990.

4. The case of the petitioners is that after the death of
B. Prakash Reddy there was a compromise between his wife and daughter and the protected tenants and that they agreed to dispose of the lands to third parties and share the sale proceeds and accordingly they executed powers of attorney in favour of the persons of their choice and the powers of attorney of the wife and daughter of Prakash Reddy and the protected tenants of his land executed sale deeds in favour of the members of petitioners 2 to 4 societies in and around 1982 and from that time onwards members of the petitioners 2 to 4 societies have been in continuous possession of the land purchased by them, which was later converted into plots after

a lay out was sanctioned by the Gram Panchayat of Bowrampet village, and that the Government ratified the said lay out in 1987 and that the protected tenants of Prakash Reddy taking advantage of the coming in force of R.O.R. Act obtained pattedar pass books in their names, suppressing the fact that they already sold away the said land to the members of the petitioners 2 to 4 societies after coming to know about that fact members of Petitioners 2 to 4 filed the aforesaid petitions Nos.A/146/96; A/1329/96 and A/746/96 before the third respondent to record their names as owners in the relevant columns in the revenue records which culminated in the first respondent passing the orders impugned in this petition.

5. The learned counsel for the petitioners placing strong reliance on the observations at Pages 575 and 576 of ***Canara Bank v. Debasis Das*** where the Apex Court considered the theory of "useless formality" and held that personal hearing, if granted by the appellate authority, would obliterate procedural deficiency of pre-decisional hearing contended that since the alleged lacuna of not giving an opportunity of being heard to respondents 4 to 43 by the third respondent was cured by the second respondent giving a full opportunity of hearing to respondents 4 to 43, and when there can be no dispute for the proposition that R.O.R. Act does not apply to vacant plots which are not agricultural lands, there was no impediment for the second respondent confirming the just order of the third respondent to change the entries in the pahanies, more so when he has such power under Rule 11 read with Rules 3, 5 and 6 of the Andhra Pradesh (Telangana Area) Land Revenue Rules, 1951. It is his contention that first respondent was in error in relying on the judgment of a learned single judge for holding that certificates under Section 38-E of the Act would come in operation from the date of issue of the proceedings, when a Full Bench of this Court in ***Sada v. Tahsildar Utnoor****,* held that the date of notification would be the date of vesting of the lands in the protected tenant and contends that since notification in G.O.Ms.No.3 Revenue (G) dated 1st January, 1973 declared that in respect of all the districts in the Telangana area of the State, ownership of all lands held by protected tenants, which they are entitled to purchase from the land holders under any provision of Chapter IV of the Act, shall, subject to the condition laid down in sub-section (7) of Section 38 of the Act, stand transferred to and vest in the protected tenants holding the said lands and from the said date protected tenants shall be deemed to be the full owners of such lands, protected tenants of B. Prakash

Reddy became owners of the land in respect of which they are protected tenants even on 01-01-1973, and since the sales in favour of the members of the petitioners 2 to 4 societies were made from 1982 onwards i.e., more than 8 years after 01-01-1973, there was no impediment for the protected tenants alienating the lands of which they became owners, from 1982 onwards. It is his contention that even if a protected tenant sells the land in respect of which he is given a certificate under Section 38-E of the Act within 8 years, as per Section 48-A of the Act that land vests in the Government, and so protected tenants cannot claim any right over the land sold away by them within 8 years of their becoming entitled to a certificate under Section 38-E of the Act. He also relied on ***Kondaveti Francis v. M.Ludramma***, ***R.S. Murthy v. Joint Collector, Sumantrabai v. Rishabhkumar***, ***Land Acquisition Officer v. N. Venkata Rao***, ***Kanhaya Lal v. National Bank***, ***Gangamoyi Debi v. Troiluckhya Nath Chowdhary***, ***Ritona Consultancy Pvt.Ltd. v. Lohia Jute Press***, ***Amresh Tiwari v. Lalta Prasad Dubey***,

Ponam Bai v. Jameer Bhikku, ***Pulli Ramaiah and another v. Potta Nagobhushanama***, ***Musku Mallaiah v. State of Andhra Pradesh***, ***B.L. Sreedhar v. K.M. Munireddy***, ***Kaitha Narsimha and others v. Susheela Devi and others***, ***N.R.Srinivas v. Madduri Mallareddy and others***, ***Steel Authority of India Ltd., v. Ranchi MUNICIPAL Corpn.***, ***K.R. Goud v. Bhavanarishi***

Co-op. House Building Society, S. Sulakshna Bai v. State of A.P., and ***K. Gal Reddy v. S. Nagaiah*** and contends that the order of the first respondent is not sustainable.

6. The contention of Sri P. Venugopal, learned counsel for respondents 4 to 43 is that since no notice admittedly, was given to respondents 4 to 43 by the third respondent before passing an order cancelling the pass books issued in favour of respondents 4 to 43 and others and since several proceedings in several courts between the members of the petitioners society and respondents 4 to 43 and others are pending and since petitioners have deliberately and with a set purpose did not make a reference to some of the proceedings in which they suffered adverse orders, it is clear that petitioners did not come to the court with clean hands and so there are no grounds to interfere with the just order passed by the first respondent, moreso because the applications filed by the members of petitioners 2 to 4 societies do not disclose the provision of law under which they are filed, and when first respondent clearly mentioned that the order passed by him is without prejudice to the other

appeals and civil cases pending in any Court. Relying on ***H.L. Trehan v. Union of India*** and ***K.I. Shephard v. Union of India*** he contended that post decisional hearing at appellate stage would not cure the defect of not affording an opportunity of being heard at the primary tribunal or authority and stated that he adopts the arguments of Sri K. Subramanya Reddy, learned senior counsel appearing on behalf of 44th respondent, impleaded as a party to the writ petition on his own application.

7. The contention of Sri K. Subramanya Reddy, learned senior counsel, for 44th respondent is that since a reading of the order of the first respondent impugned in this petition shows that apart from the revisions preferred by the members of petitioners 2 to 4 societies Tenancy Appeal No.F2/3809/2000 and the revision petition Nos. D5/5498 to 5500/2000 filed by some others in respect of the land in survey Nos.247 to 269 of Bowrampet village are pending before him (first respondent) and that a request made to club the proceedings initiated by the members of petitioners 2 to 4 societies and those tenancy appeal and revisions was negatived, first respondent ought not to have imported the facts and arguments in the tenancy appeal and revisions into the revisions preferred by the members of petitioners 2 to 4 societies. It is his contention that since written arguments were submitted by the learned counsel for both parties before the first respondent, raising contentions which are really unnecessary for consideration of the revision preferred by the members of petitioners 2 to 4 societies, first respondent seems to have stayed away, sometimes, from the point that really arose for consideration before him. He fairly conceded that since the land in dispute is being used exclusively for non-agricultural purpose and as plots the same is not 'land' within the meaning of the R.O.R. Act, and so the provisions of the R.O.R. Act have no application to the facts of this case and therefore by eschewing the observations made by the first respondent in the order impugned, which in fact relate to the Tenancy Appeal and the rights of the protected tenants, if the order impugned is taken into consideration first respondent dismissing the revisions of the members of petitioners 2 to 4 societies based only on the ground that the provisions of the R.O.R. Act have no application to the lands covered by the proceedings, which are house plots, cannot be said to be a wrong order. It is his contention that since third respondent admittedly did not issue notice to the effected parties before cancelling the pass books issued to them and, before ordering a change of the entries in the pahanies, it

would but be fair if the parties are asked to go before the third respondent and seek their remedies before him. It is his contention that since third respondent treated the proceedings before him as proceedings under the R.O.R. Act and since the proceedings under the A.P. (Telangana Area) Land Revenue Act and the Rules made thereunder are different from the proceedings under the R.O.R. Act and since 'record of rights' means and connotes the documents prepared under the provisions of the R.O.R. Act and since records under R.O.R. Act would be prepared from the revenue registers maintained in the village level only and since any change in the entries in the revenue registers would affect the rights of the parties concerned, the affected parties are entitled to a notice and since third respondent did not admittedly give notice to the affected parties, he was in error in ordering change of entries in the pahanies without notice and contends that parties can be permitted to seek their remedies in appropriate courts by setting aside the finding of the first respondent on the points for consideration under the Act i.e., related to the rights of protected tenants.

8. In reply, the learned counsel for the petitioners relying on ***M.T.Khan v. Govt. of A.P*** contended that non quoting or misquoting of a provision of law is of no consequence and since respondents 4 to 43 did prefer an appeal before the second respondent invoking the provisions of the R.O.R. Act and since second respondent passed adverse orders against petitioners and had set at naught the orders passed by the third respondent, petitioners 2 to 4 had to prefer a revision before the first respondent under the provisions of the R.O.R. Act only and could not have sought a remedy under the A.P. (Telangana Area) Land Revenue Act or the Rules made thereunder and since as per Rule 3 of the Rules made under R.O.R. act Pahani/Adangal does not constitute the record of rights for the village and since the A.P. (Telangana Area) Record of Rights in Land Regulations 1358 F stood repealed by Section 13 of R.O.R. Act, only Rule 11 of the A.P. (Telangana Area) Land Revenue Rules, 1951 applies for effecting mutation in revenue records.

9. Since counsel for both sides agree that the provisions of the R.O.R. Act have no application to the lands in question, as they are not agricultural lands and are being treated as plots only, from several years prior to initiation of the proceedings, the finding of respondents 1 to 3 that the provisions of the Act have no application to the lands in question, cannot be said to be erroneous or wrong. When once the

provisions of the R.O.R. Act have no application, issuance of passbooks, which can be done only under R.O.R. Act, to anybody in respect of the lands in question, does not arise and in view of the fact that the lands in question are not governed by the R.O.R. Act if any passbook is issued in respect of those lands it would not have any effect.

So the observation of the third respondent in his order, "Accordingly pass books issued in the above Sy.Nos. will become invalid. However because they are registered landholders on the land, ordered for inclusion of the Suryanagar Housing Welfare Association in the possession column, while keeping pattadar column as 'plots' in the current pahani (Village Account No.3)" cannot be found fault with; as it is a perfectly justified observation. Since respondents 4 to 44 admit that provisions of the R.O.R. Act do no apply to the lands in question, they cannot feel aggrieved by the above observation of the 3rd respondent.

10. Now the question is whether any of the respondents 4 to 44 can be said to be aggrieved by inclusion of the name of petitioners 2 to 4 societies in possessor column and inclusion of 'plots' in pattedar column of the pahani for 1997 and thereafter.

Rule 11 of the A.P. (Telangana Area) Land Revenue Rules, 1951 reads:

"11. **To who applications should be made**:- (1) Applications for transfer of registry under the provisions of Rule 6 or Rule 7 shall be made to the Collector or Deputy Collector and all other applications for transfer of registry shall be made to a Revenue Officer not lower in rank than a Girdawar in whose jurisdiction the land, the registry of which is sought to be changed, is situate or to registration Officers when any deed of conveyance is presented for registration. The Patwari of the village shall immediately report the death of a registered holder to the Tahsildar or Naib Tahsildar within whose jurisdiction the village is situated, giving the names of heirs of the deceased so far as may be ascertained. The Collector, Deputy Collector, Tahsildar or Naib Tahsildar, as the case may be, shall dispose of finally all applications for transfer, filed before him and shall direct change of registry either on his own motion or after enquiry and report of an officer not lower in rank than a Girdawar.

(2) No appeal shall lie in cases of transfers of registry ordered by Tahsildar of Naib Tahsildar. The Deputy Collector and the Collector may, in the exercise of their general powers of revision, entertain revision petitions at any time against the orders of their subordinates in such cases and shall entertain such applications when there is a likelihood of Government being involved in a civil suit. The Girdawar after making personal enquiry in the village where the land is situated may dispose of such of the applications for transfer of registry as are presented to him and also such of the outstanding cases of transfer of registry ascertained by him during his inspections as

provided in Rule
8 (b) which do not involve any dispute or formation of new
sub-divisions. Disputed cases and cases involving sub-divisions shall be submitted to the Tahsildar or Naib Tahsildar, as the case may be, for orders."

So it is clear that even *suo motu* changes can be made in the revenue registers depending on the facts. The applications made by the members of petitioners 2 to 4 societies is to enter their names in the revenue records i.e., pahanies on the basis of the register sale deeds in their names and since the orders passed by respondents 1 and 2 show that execution of the sale deeds in favour of the members of petitioners 2 to 4 societies is not disputed. Third respondent ordering change in the entries in columns relating to pattedar and possessor in the pahani cannot be said to be erroneous, because the above Rule does not specifically lay down that an opportunity of hearing should be given to the vendors. It is also well known that mutation in the revenue registers would not confer title and would not take away the title, if is present in the land, in a party.

11. As contended by the learned senior counsel for 44th respondent, and also in my considered opinion, it is not really necessary to go into question as to when the protected tenant acquires title to the land for deciding the petition and so I do not wish to go into the question as to when the protected tenants became the owners of the lands in respect of which they were protected tenants .

12. Since it is an admitted fact that the lands in question are plots, by ordering a change in the pattedar column as plots, neither respondents 4 to 44 nor anybody would be prejudiced.

It is well known that pahanies are maintained for the purpose of statistics and land revenue collection. If the land is a vacant land or is a plot the presumption is that possession follows title. So merely because the name of 'X' is shown in possessions column of pahanies, when it a vacant site, merely on the basis of that entry he cannot be said to be in possession, if he is not the owner of the land 'X' should do some other overtact like construction of building etc., therein to establish his possession. Similarly if some horticulture etc., is under taken in the vacant plot that person can be said to be in possession. So merely because the name of somebody is entered in the possessor's coloumn of the pahani when that plot is a vacant land, it would not be of any evidential value, if that person is not the ownerof that vacant land. For that reason also I am of the view that no prejudice is caused to

respondents 4 to 44 by the change ordered by the third respondent.

13. In my considered opinion it is not really necessary to go into the question whether post decisional hearing and whether 'useless formality' theory can be invoked or not for deciding this case since I held that as per the Rule 11 of the A.P. (Telangana Area) Land Revenue Rules, extracted above, s*uo motu* power is given to the revenue officer to effect change in the revenue registers. So even without an application, third respondent could have effected the change in the relevant column of the pahani.

14. In the above circumstances, the writ petition is allowed, Rule Nisi is made absolute and the common order dated
30-07-2001 of the first respondent is set aside and the orders of the third respondent in File Nos.A/146/96, A/1329/96, and A/746/96, dated 13-03-1997 are restored. Both parties are directed to bear their own costs.

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C.Y. SOMAYAJULU, J

Date: 11th April, 2005

isn/glv

The Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Monday, the Eleventh day of April, Two Thousand and Five.

ASSISTANT REGISTRAR

To

1 The Joint Collector
Ranga Reddy District, Khairthabad,
Hyderabad.
2 The Revenue Divisional Officer, East Division,
Ranga Reddy District.
3 The Mandal Revenue Officer, Qutubullapur,
Qutubullapur Mandal, Ranga Reddy District.
4 Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

5. Two CD copies